

UNITED STATES DISTRICT COURT

FILED
ASHEVILLE, NC

MAR 01 2024

for the

Western District of North Carolina

U.S. DISTRICT COURT
W. DISTRICT OF N.C.

Asheville Division

Case No.

1:24-cv-00066-MR

(to be filled in by the Clerk's Office)

ROBERT PRICE

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Atrium Health; Southern Health; Partners
Ashley Williams;

Officer FNU Hamrick

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

Jury Trial
Demanded

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

Robert Price

All other names by which
you have been known:

ID Number

0330792

Current Institution

Nash Correctional Institute

Address

P.O. Box 600Nashville

City

N.C.

State

27856

Zip Code

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

Atrium HealthJob or Title (*if known*)Private medical care provider

Shield Number

Employer

Address

201 East Grover StShelby

City

N.C.

State

28150

Zip Code



Individual capacity



Official capacity

Defendant No. 2

Name

Southern Health PartnersJob or Title (*if known*)Municipality Contracted medical provider

Shield Number

Employer

Cleveland County Detention Center

Address

City

State

Zip Code



Individual capacity



Official capacity

Defendant No. 3

Name

Ashley Williams

Job or Title (if known)

Nurse practitioner

Shield Number

Employer

Atrium Health

Address

201 EAST Grover St.

Shelby
CityN.C.
State28150
Zip Code☐ Individual capacity☐ Official capacity

Defendant No. 4

Name

OFFICER HAMRICK

Job or Title (if known)

detention officer

Shield Number

Employer

Cleveland County Sheriff's Office

Address

Shelby
CityN.C.
State28150
Zip Code☐ Individual capacity☐ Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

☐ Federal officials (a *Bivens* claim)

☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

Fourteenth Amend due process Violation failure to execute Sick Call,
Procedure under Eighth Amend, deliberate Indifference to Serious
Medical Need.

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

- fourteenth Amend. due process violation failure to execute sick call, procedure under Eighth Amend. deliberate indifference to serious medical need
- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed. together, and separately each defendant ignored my request for medical assistance in the area of serious medical need, Bladder, and Urethra deformities for nine days urinating blood, denied me access to services of medical provider

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (check all that apply):

- ☐ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☒ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner
- ☐ Other (explain) _____

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose. In order from jail to medical services governed by Southern Health Partners to outside medical care provider Atrium Health Care
- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

Jail Custody and Medical Services Section providers and all Third Party Providers in the County of Cleveland N.C.

C. What date and approximate time did the events giving rise to your claim(s) occur?

beginning on 10/12/21 until ending date on or about April of 2021

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what?

Was anyone else involved? Who else saw what happened?) officer Hamrick was aware of my serious medical need, but ignored it stating he thought I was faking, thus chain of events Southern Health Partners further ignored for 9 days providing any care which denied timely care leading to emergency transport to Atrium Health Care where Nurse Williams denied services, and returned me back to jail, leading to emergency surgery on 11/30/21, Ms. Williams refused order from jail to put a catheter in. to give me some relief.

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

Serious inability to urinate, leading to serious bleeding from penis, and need for bladder neck surgery, had emergency surgery on 11/30/21, due to Ms. Williams refusing to put catheter in. Since 11/30/21, I've had three more surgeries, may have to have a fourth. Had seen Nurse Williams on 10/21/21.

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

Jury determination of Award for Nonmal, 1 dollar, Punitive more than 10,000 Compensatory more than 10,000 dollars.

Declaratory relief that defendants violated my civil rights.

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

- A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

- B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes

☐ No

☐ Do not know

- C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☐ Yes

☐ No

☒ Do not know

If yes, which claim(s)?

- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes

☐ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☒ Yes

☐ No

- E. If you did file a grievance:

1. Where did you file the grievance?

Cleveland County Detention Center

2. What did you claim in your grievance?

that I could not urinate, and needed to see provider

3. What was the result, if any?

Unknown,

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

Wrote multiple grievances, Jail was fully aware, my Counsel also reported it, along with my Employer Wayne Allen

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

Filed out unknown if processed

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any: Mr Allen my Employer, Personally Called the Sheriff, then in open Court Counsel informed proper Chain of Command

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

☐ Yes

☒ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☒ Yes

☐ No

- B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s) Same

Defendant(s) Same

2. Court (if federal court, name the district; if state court, name the county and State)

Western District of North Carolina U.S. District Court

3. Docket or index number

1-23-CV-12-MR

4. Name of Judge assigned to your case

Judge Redinger

5. Approximate date of filing lawsuit

JAN 9th 2023

6. Is the case still pending?

☐ Yes

☒ No

If no, give the approximate date of disposition.

3/14/23 - 5/1/23

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

Dismissed Without prejudice

- C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

☐ Yes

☒ No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition _____

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: Robert Price 2/22/24

Signature of Plaintiff Robert Price

Printed Name of Plaintiff Robert Price

Prison Identification # 0330792

Prison Address P.O. Box 600

Nashville, N.C. 27856

City State Zip Code

B. For Attorneys

Date of signing: _____

Signature of Attorney _____

Printed Name of Attorney _____

Bar Number _____

Name of Law Firm _____

Address _____

City State Zip Code

Telephone Number _____

E-mail Address _____